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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,702	12/22/2004	Sabine Homann	HO-P03030US0	5092
26271 7590 02/22/2008 FULBRIGHT & JAWORSKI, LLP 1301 MCKINNEY SUITE 5100 HOUSTON, TX 77010-3095				
EXAMINER				
GROSSO, HARRY A				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
02/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/501,702

**Applicant(s)**

HOMANN, SABINE

**Examiner**

HARRY A. GROSSO

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 1/20/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Goulette (5,220,999).

3. Regarding claim 1, Goulette discloses a packaging unit (Figures 1-4) with a body having a closed lower end and an open upper end, a cap (12) and a floor section (22) that can be inserted into the open end to a predetermined extent and a means for connecting the floor section of the container body to the cap of another packaging unit by nesting the floor section in the concave portion of the cap (14, column 4, lines 47-61).

4. Regarding claim 2, Goulette discloses the cross-sectional area of the floor section of the container body is smaller than the cross-sectional area of the open end.

5. Regarding claim 3, Goulette discloses a step between the floor section and the rest of the side wall, as can be seen in the figures, between the floor section (22) and the side wall (26). The step would abut the upper edge of the open end, the flange (32) when the floor section is inserted therein.

6. Regarding claim 4, Goulette discloses a least one part of the means for connecting the floor section to another packaging unit is in the lower end of the container body and comprises the tapered walls of the floor section.
7. Regarding claim 6, Goulette discloses the packaging unit has a circular cross-sectional area in the floor section and at the open end.
8. Regarding claim 7 Goulette discloses the unit is made from plastic (column 3, lines 46-49).
9. Regarding claim 9, Goulette discloses all of the structure required in the claim. The examiner considers the phrase "manufactured by injection moulding" to constitute a product by process limitation that does not materially affect structure.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goulette in view of Wallberg (6,158,607). Goulette discloses the invention with a projection on the inside of the cap but does not teach an indentation in the lower end. Wallberg discloses a container with a projection on the inside of the cap and an indentation in the bottom surface of the lower end of container body that allows a cap to engage the lower end. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an indentation in the bottom

surface of the lower end of the container as disclosed by Wallberg in the packaging unit disclosed by Goulette to allow the projection on the inside of the cap to engage the lower end of a container to improve stacking of units with the cap open by reversing the units end for end when stacking.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goulette in view of Natori (4,787,552). Goulette discloses the invention except for the packaging unit material being polypropylene. Natori discloses a similar container and further discloses that this type of container may be made from polypropylene (column 1, lines 9-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of polypropylene as disclosed by Natori in the packaging unit disclosed by Goulette because it is known in the art to use polypropylene for this type of container.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY A. GROSSO whose telephone number is (571)272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3781

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony D Stashick/  
Anthony Stashick  
Supervisory Patent Examiner  
Art Unit 3781

hag  
/HG/